

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

2014 JUL 10 P 3:43

Eat Good Do Good, LLC
Plaintiff,

v.

Pellegrino Food Products Co., Inc.
Defendant.

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Civil Action No. 14-cv-863

CLERK U.S. DISTRICT COURT
ALEXANDRIA, VIRGINIA

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Eat Good Do Good, LLC is a limited liability company organized under the laws of the Commonwealth of Virginia, with its principal office located at 6020 Katelyn Court, Alexandria, Virginia 22310, within Fairfax County. Eat Good Do Good does business under the trade name TaDah Foods. Eat Good Do Good LLC has five Members: John Sorial, David Habashy, Mark Girguis, Mark Morcos, and Makram Morcos. John Sorial and David Habashy are residents and citizens of the Commonwealth of Virginia. Mark Girguis, Mark Morcos and Makram Morcos are residents and citizens of the State of California.

2. Pellegrino Food Products Co., Inc., is a corporation organized under the laws of the Commonwealth of Pennsylvania, with its principal office located at 100 Lookout Street, Warren, Pennsylvania 16365.

JURISDICTION AND VENUE

3. This Court has federal jurisdiction based on diversity of citizenship pursuant to 28 U.S.C. § 1332 in that Plaintiff and Defendant are citizens of different states, and the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) in that Pellegrino Food Products Co., Inc., is a corporation that is subject to personal jurisdiction in Virginia, and a substantial part of the events or omissions on which the claims are based occurred in this district.

FACTUAL ALLEGATIONS

5. Eat Good Do Good is a food products company specializing in all natural, healthy Mediterranean foods. Its products include the Tadah Falafel Wrap and Tadah Falafel Poppers (each in flavors such as Feta Salsa, Sweet-n-Spicy Harissa, and Lemon-Garlic Hummus) which it markets and sells nationally.

6. Eat Good Do Good owns the processes, formulas, technical information, trade secrets, know-how and other information (hereafter referred to as “proprietary information”) relating to the manufacture and formulation of its’ food products.

7. Pellegrino is a contract manufacturer of food products, historically specializing in production of Italian-themed foods such as calzones, strombolis, tomato sauces and breads.

8. In 2010 Eat Good Do Good entered into a contractual relationship with Pellegrino under which Pellegrino would manufacture, process and package for sale Eat Good Do Good’s Falafel Wrap products.

9. Prior to its relationship with Eat Good Do Good, Pellegrino was unfamiliar with falafel production. Pellegrino was so unfamiliar with falafel production that it asked Eat Good Do Good to video how it made falafel, which it did and which it e-mailed to Pellegrino.

10. During their business relationship, Eat Good Do Good disclosed its proprietary information to Pellegrino to teach and enable Pellegrino to manufacture Eat Good Do Good’s products using Eat Good Do Good’s recipes on Pellegrino’s equipment. A representative of Eat Good Do Good was present during every pilot run and early phase production runs to tweak and

adjust the product formulations as needed to run on Pellegrino's equipment, and to ensure Eat Good Do Good's taste and quality standards were met. Eat Good Do Good paid Pellegrino for its services.

11. Eat Good Do Good and Pellegrino established a tolling charge arrangement under which Eat Good Do Good would source, pay for, and deliver to Pellegrino most of the supplied ingredients and Pellegrino would charge Eat Good Do Good a per unit fee for the manufacture of its' wraps.

12. Initially, Eat Good Do Good had its' falafel patties made by another supplier who would deliver the patties to Pellegrino who produced the sauce, made the finished wrap (3 individual patties, layered with one of Eat Good Do Good's sauces, rolled in a tortilla), and packaged the product. Later, to create manufacturing efficiencies, Eat Good Do Good requested that Pellegrino produce the falafel patties. To this end, Eat Good Do Good suggested that Pellegrino produce a single "long" falafel patty that would run the length of the tortilla. Over the course of production runs for this product, Eat Good Do Good had a representative on site at Pellegrino to tweak patty dimensions and fry times and ensure the product's texture and taste were in conformance with Eat Good Do Good's specifications.

13. From 2011 to 2013, as a result of the success of Eat Good Do Good's marketing and sales efforts, production runs for Eat Good Do Good's Falafel Wrap products became larger and more frequent.

14. In 2012, Eat Good Do Good began development of a novel product concept: Eat Good Do Good's proprietary falafels stuffed or co-extruded with one of Eat Good Do Good's proprietary sauces. Eat Good Do Good called them Falafel Poppers.

15. Because it was already producing the Falafel Wraps and Eat Good Do Good's sauces, Eat Good Do Good retained Pellegrino to manufacture Eat Good Do Good's Falafel Poppers. Eat Good Do Good launched the product in the fourth quarter of 2013.

16. In early 2014, Eat Good Do Good retained the services of a third-party consulting firm to provide product development services and assist in reformulating Eat Good Do Good's products.

17. Eat Good Do Good ceased using the services of Pellegrino in the Spring of 2014.

18. Pellegrino claims it owns certain information related to production of Eat Good Do Good's Falafel Wrap product, the Falafel Popper product and certain proprietary information related to the Falafel Popper product.

19. By letter dated June 27, 2014, Pellegrino, through its counsel, asserted it owned "confidential, proprietary, and trade secrets information concerning the processes, procedures, and techniques relating to the mass manufacturing of falafel wraps." Pellegrino further asserted it owned "confidential, proprietary, and trade secrets information concerning the formula, processes, procedures, and techniques relating to the manufacturing of the "falafel popper" product invented by Pellegrino Foods."

20. Eat Good Do Good disputes that Pellegrino owns the proprietary information identified in its June 27 letter; but rather asserts the proprietary information belongs to Eat Good Do Good.

21. Eat Good Do Good is not using any confidential, proprietary, and trade secrets information belonging to Pellegrino.

**FIRST CLAIM FOR RELIEF
(Declaratory Judgment)**

22. Eat Good Do Good repeats and realleges the allegations of paragraphs 1 through 21 as though fully set forth herein.

23. There is an actual controversy between Eat Good Do Good and Pellegrino regarding ownership of the proprietary information relating to the manufacture and formulation of Eat Good Do Good's food products.

24. Under the Federal Declaratory Judgment Act, 28 U.S.C. § 2201 and Fed. R. Civ. P. 57, this Court may declare the respective rights, duties and other legal relations of the parties relating to the ownership of the proprietary information.

25. Eat Good Do Good request that this court enter its judgment declaring that Eat Good Do Good is the owner of the proprietary information relating to the manufacture and formulation of Eat Good Do Good's food products, and that Pellegrino has no rights to such information.

**SECOND CLAIM FOR RELIEF
(Injunction)**

26. Eat Good Do Good repeats and realleges the allegations of paragraphs 1 through 25 as though fully set forth herein.

27. Pellegrino's continued assertion that Pellegrino owns "confidential, proprietary, and trade secrets information concerning the formula, processes, procedures, and techniques relating to the manufacturing" of Eat Good Do Good's products will result in ongoing damage to Eat Good Do Good for which there is no adequate remedy at law.

28. Eat Good Do Good requests that this court enjoin Pellegrino from asserting ownership to the proprietary information relating to the manufacture and formulation of Eat Good Do Good's food products, and enjoin Pellegrino from using such information.

REQUEST FOR RELIEF

WHEREFORE, Eat Good Do Good respectfully requests that the Court enter judgment in its favor and against Pellegrino, and:

1. Declare that Eat Good Do Good is the owner of the proprietary information relating to the manufacture and formulation of Eat Good Do Good's food products, and that Pellegrino has no rights to such information; and
2. Enjoin Pellegrino from asserting ownership to the proprietary information relating to the manufacture and formulation of Eat Good Do Good's food products, and enjoin Pellegrino from using such information; and
3. Order such other relief as this Court deems just and proper.

Respectfully submitted,
Fluet, Huber + Hoang, PLLC

Dated: July 10, 2014

By: 

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